

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
W.R. GRACE & CO., <i>et al.</i> ,)	Case No. 01-1139 (JKF)
)	
Debtors.)	Jointly Administered
)	Re: Docket Nos.: 14523, 14524, 14526, 14527

**OBJECTION TO THE DEBTOR'S AGREED MOTION FOR ENTRY OF AN
ORDER CONFIRMING THAT DEPOSITION TESTIMONY OF DR. PHILIP H.
LUCAS IS NOT WITHIN THE SCOPE OF THE HEALTH INSURANCE
PORTABILITY AND ACCOUNTABILITY ACT**

The Official Committee of Asbestos Personal Injury Claimants ("ACC"), hereby objects ("Objection") to the Agreed Motion For Entry Of An Order Confirming That Deposition Testimony of Dr. Philip H. Lucas Is Not Within The Scope Of The Health Insurance Portability And Accountability Act ("Motion"). In support of this Objection, the ACC states as follows:

INTRODUCTION

1. On April 2, 2001 (the "Petition Date"), the Debtors commenced the instant proceedings by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") with the Clerk of this Court.

2. No trustee or examiner has been appointed in these cases. On April 12, 2001, the United States Trustee for the District of Delaware appointed the ACC, the Official Committee of Asbestos Property Damage Claimants and the Official Committee of Unsecured Creditors. On June 18, 2001, the U.S. Trustee appointed the Official Committee of Equity Security Holders. On May 24, 2004, this Court signed an Order appointing David T. Austern as the Legal Representative for Future Asbestos Claimants.

3. On February 8, 2007, the Debtors filed the Motion, along with the Debtors' Motion for Expedited Consideration Of Agreed Motion For Entry Of An Order Confirming That Deposition

Testimony of Dr. Philip H. Lucas Is Not Within The Scope Of The Health Insurance Portability And Accountability Act [DI 14524] (the “Motion to Expedite”). On February 9, 2007, the Debtors filed a Certificate of Service for the Motion [DI 14527] and an additional Certificate of Service for the Motion to Expedite [DI 14526] (collectively, the “Certificates of Service”).

OBJECTION

4. The ACC takes no position on the merits of whether HIPPA applies to Dr. Lucas' testimony or the production of any records in his possession. While Grace may be entirely correct that the Health Insurance Portability And Accountability Act (“HIPPA”) does not apply to Dr. Lucas' testimony, it is apparent from a review of the Certificates of Service that the only parties who have been given notice of the Motion and proposed order are the parties who have requested notice pursuant to Federal Rule of Bankruptcy Procedure 2002 and Kristin M. Bronson, Esquire, of Rothgerber Johnson & Lyons, LLP. Upon information and belief, Kristin Bronson is Dr. Lucas' counsel.

5. Grace has not provided notice to any individual claimants who were seen or whose medical records were reviewed by Dr. Lucas. In addition, Grace has apparently not provided notice of the Motion to counsel of the individual claimants. Notice of the relief requested in the Motion should be provided to either individual claimants or their counsel as the proposed order could affect persons other than Dr. Lucas and the Debtors— namely the claimants who were seen or whose medical records were reviewed by Dr. Lucas.

6. At a minimum, the Court should not grant the Motion without directing the Debtors to notify any claimants potentially affected by the proposed order to give them an opportunity to be heard.

WHEREFORE, absent appropriate notice, the ACC respectfully requests that the Court deny the Agreed Motion For Entry Of An Order Confirming That Deposition Testimony of Dr. Philip H. Lucas Is Not Within The Scope Of The Health Insurance Portability And Accountability Act.

Date: February 13, 2007

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